

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

	x	
In re:	:	Case No. 08-03423-EE
	:	
WAREHOUSE 86, LLC,	:	Chapter 11
	:	
Debtor.	:	
	:	
	x	
SCK, INC. and RADIOSHACK CORPORATION,	:	Adv. Pro. No. 09-00139-EE
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
WAREHOUSE 86, LLC,	:	
	:	
Defendant.	:	
	:	
	x	

RESPONSE TO WAREHOUSE 86, LLC'S MOTION TO COMPEL

Plaintiffs, SCK, Inc., f/k/a SC Kiosks, Inc. (“SCK”), and RadioShack Corporation (“RadioShack”), file this Response to Warehouse 86, LLC’s (the “Debtor”) Motion to Compel (Dkt. 56), as follows:

The Debtor complains that the corporate witness for SCK and RadioShack could not answer the Debtor’s questions in a deposition. The corporate witness, Jaime Caballero, is the best witness available to the Plaintiffs. All other persons employed by SCK and RadioShack who had any involvement with the tornado loss and the fire loss are no longer employed. Accordingly, Plaintiffs cannot produce anyone within their companies with knowledge superior to Mr. Caballero unless Plaintiffs were to waive the attorney-client privilege.

However, the Debtor is not left without relief. The Plaintiffs can tender for deposition purposes Bill Adams, the independent claims adjuster who investigated the subject losses for them. Mr. Adams resides in Texas and is employed by McLaren Young International. On several occasions Plaintiffs have provided Mr. Adams' report which sets forth his findings and opinions as to the subject losses.¹ Plaintiffs have reminded the Debtor of Mr. Adams' role and the Plaintiffs' intentions to use Mr. Adams at trial as their key witness to support Plaintiffs' losses. Testimony from Mr. Adams about his investigation and findings will be a vital component of the Plaintiffs' case-in-chief. Therefore, deposition testimony from Mr. Adams will provide the Debtor with the information sought, but unavailable, from a representative of the Plaintiffs.

WHEREFORE, Plaintiffs respectfully request that the Court deny the Debtor's Motion to Compel. The Plaintiffs pray for such other and further relief this Court deems proper and just.

Dated: June 17, 2010

Respectfully submitted,

SCK INC. and RADIOSHACK CORPORATION

/s/ W. Lee Watt

W. Lee Watt

¹ See, e.g., Plaintiffs' Proof of Claim (Dkt.16-1) and Amended Proof of Claim (Dkt.16-2). Plaintiffs also provided Mr. Adams' report in response to the Debtor's written discovery requests. Further, Mr. Adams has been designated as one of Plaintiffs' experts (Dkt.40).

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ATTORNEYS FOR SCK INC. AND RADIO SHACK
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CERTIFICATE OF SERVICE

I hereby certify that I have this day forwarded a true and correct copy of the above paper to the following via the CM/ECF system.

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Dated: June 17, 2010

/s/ W. Lee Watt